

DRAFT UNAPPROVED MINUTES
VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS
MEETING MINUTES

The Virginia Board of Funeral Directors and Embalmers convened for a Board meeting on Tuesday, July 18, 2017 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #4, Henrico, Virginia 23233.

BOARD MEMBERS PRESENT

Louis R. Jones, FSL, President
Larry T. Ombs, Vice President
Joseph Frank Walton, Secretary-Treasurer
Connie B. Steele, FSL
R. Thomas Slusser, Jr., FSL
Blair Nelsen, FSL
Junius H. Williams, Jr., Citizen Member

BOARD MEMBERS ABSENT

Ibrahim A. Moiz, Esq., Citizen Member
Mia F. Mimms, FSL, JD

STAFF PRESENT FOR ALL OR PART OF MEETING

Corie Tillman Wolf, Executive Director
Lynne Helmick, Deputy Executive Director
Lisa Hahn, Chief Deputy
Elaine Yeatts, Senior Policy Analyst
Heather Wright, Program Manager, FDE/LTCA Boards
Kathy Petersen, Discipline Manager
Asia Pham, Intern
Erin Barrett, Assistant Attorney General, Board Counsel

GUESTS PRESENT

W. Scott Johnson, First Choice Consulting
Abbey Shepperson, VFDA
Bruce Keeney, IFHV
Bo Keeney, IFHV
Barry D. Robinson, VMA

CALLED TO ORDER

Louis R. Jones, FSL, President, called the Board meeting to order at 9:35 a.m.

Board members and staff introduced themselves. With 7 Board members present, a quorum was established.

Mr. Jones stated the following before the first order of business:

- 1) He explained that there were no microphones available therefore everyone would need to speak loud enough so others can hear.
- 2) Computers were provided to the Board members for the purpose of the meeting only and have no connection to the internet. The material that they are able to review on the computer is the same material that has been made available to the public.

Ms. Tillman Wolf then read the emergency egress instructions.

ACCEPTANCE OF MINUTES

Upon a motion by Tommy Slusser, and properly seconded by Junius Williams, the Board voted to accept the following meeting minutes:

- Minutes of Board Meeting – April 18, 2017

The vote was unanimous in favor of the motion.

ORDERING OF AGENDA

Changes in the order of the agenda were made to accommodate the schedules of Ms. Yeatts and Ms. Hahn with other scheduled Board meetings.

Upon a motion by Connie Steele, and properly seconded by Blair Nelsen, the Board voted to accept the Agenda as revised. The vote was unanimous in favor of the motion.

PUBLIC COMMENT PERIOD

Bruce Keeney, IFHV, stated that he appreciated the Board's work on a guidance document and proposed regulations on refrigeration. He said the current law was enacted as a result of public outcry from a case in Northern Virginia. IFHV has a concern regarding requiring logs for documentation of moving bodies in and out of refrigeration. This may adversely impact small businesses. He would like the Board to consider other types of documentation as well.

Barry Robinson, VMA, thanked Connie Steele for a presentation to VMA earlier this year. He also thanked Corie Tillman Wolf and Lynne Helmick for their presentations at the VMA Annual Conference. Mr. Robinson passed on appreciation from Frederick Carter's family to the Board for their support after the death of Mr. Carter. The family appreciated the attendance of Lynne Helmick and Karen Schaller, Senior Inspector, at Mr. Carter's funeral service.

Mr. Robinson asked for clarification of the proposed \$25 fee for intern supervisors in the minutes of the Ad Hoc Committee on Internships. Mr. Robinson expressed concern regarding the application of the guidance document regarding aiding and abetting unlicensed activity.

AGENCY DIRECTOR'S REPORT- Lisa Hahn, Chief Deputy

Ms. Hahn explained changes to agency policies and procedures regarding the use of Adjudication Specialists during informal conferences. She explained that the Adjudication Specialists generally will not be in closed sessions, and if they are requested by staff or board members to attend the closed session, they will not be able to be part of the formal hearing process. This change was necessary to counteract possible appearances of impropriety and due process concerns.

Ms. Hahn stated that as of July 1, 2017, board members will receive a per diem of \$50.

Ms. Hahn reported that the VCU Department of Psychiatry is offering training to boards on impairment and treatment.

With no further questions, Ms. Hahn concluded her report.

REPORT ON AD HOC COMMITTEE ON FUNERAL INTERNS – Blair Nelsen, FSL

Blair Nelsen reported that the committee met on July 13, 2017. The committee recommended the following:

- DHP to request a change in *Code of Virginia § 54.1-2817* that would make the internship no longer than 5 years, with wording that the Board may deny additional extensions to internships. (**Attachment A**).

Mr. Nelsen moved to accept this recommendation and for the Board to pursue legislation to amend § 54.1-2817. Tommy Slusser seconded the motion. The vote was unanimous in favor of the motion.

- Changes to the Regulations for the Funeral Service Internship Program as follows:
 - A change to 18VAC65-40-130 (A) to indicate training should be completed within not less than 18 months nor more than 60 months, and that the board would only consider extensions for extenuating circumstances.
 - A reduction in the initial intern supervisor application fee to \$25 and instituting a yearly renewal fee of \$25. This would allow the Board to track active supervisors and make sure supervisors are in good standing.
 - The addition of a regulation requiring that interns be identified to the public as interns in titles, correspondence, and communications with the public.

Mr. Nelsen moved that the Board initiate a Notice of Intended Regulatory Action for regulatory changes to implement the three recommendations of the Committee. The motion was seconded by Connie Steele. The vote was unanimous in favor of the motion.

Mr. Nelsen stated that the Committee also discussed the current Intern Report forms and suggested that the committee meet again to revise the forms, with input from licensees and others regarding the areas of training. He reported that the International Conference of Funeral Service Examining Boards is developing a Model Internship Committee.

Larry Omph made a motion to accept the Ad Hoc Committee's report and minutes. The motion was seconded by Frank Walton. The vote was unanimous in favor of the motion.

LEGISLATION AND REGULATORY ACTIONS – Elaine Yeatts, Senior Policy Analyst

Adoption of Guidance Document on Intern Identification

Ms. Yeatts recommended that the Board consider a Guidance Document regarding identification of interns. Ms. Barrett recommended that proposed language on the draft Guidance Document indicate that the "board recommends" identification. Board members further discussed the use of identification as an intern where identifying titles were otherwise used. (**Attachment B**)

Mr. Omph made a motion to adopt the Guidance Document as amended. Mr. Williams seconded the motion. The vote was unanimous in favor of the motion.

Consideration of Public Comment – NOIRA – Refrigeration and Permission to Embalm

Ms. Yeatts reported on the public comments received on the NOIRA for refrigeration and embalming documentation. The comments regarding refrigeration included concerns about separate logs for refrigeration, a request for current funeral homes to be grandfathered in on the requirement, and the practicality of whether a funeral home would be able to use a competitor's or hospital's refrigeration. Comments received regarding embalming permission reflected a concern about needing a separate document.

Adoption of Proposed Regulations on Refrigeration and Permission to Embalm

Ms. Yeatts led Board members through review and discussion of draft language for embalming permission and refrigeration regulations. The Board discussed a change in language in the proposed regulation on refrigeration, including adding "evidence of compliance of this requirement shall be maintained as a log entry or other documentation indicating times of placement and removal of a body in refrigeration."

Mr. Omph moved to adopt the language in the draft proposed regulations, as amended. Mr. Slusser seconded the motion. The vote was unanimous in favor of the motion. (**Attachment C**)

The Board discussed the issue of hospitals transferring claimed bodies to funeral homes for storage because the hospital's refrigeration is full, including notifying next of kin about the location of the body and who is liable. It was agreed that this will be discussed further at the next Board meeting. Board staff will research and provide the relevant statutory references to the Board.

BREAK

Mr. Jones called for a break at 11:01 a.m. The Board meeting reconvened at 11:09 a.m.

HEALTHCARE WORKFORCE DATA CENTER (HWDC) – Elizabeth Carter, Ph.D.

Dr. Carter reported on the Virginia's Funeral Service Provider Workforce: 2017 survey results. She shared some of the highlights of the survey data, including:

- There was an increase in full-time equivalency positions despite a small drop in licensees from 2016 to 2017.
- 20% of the Board's licensees do not work in Virginia.
- The pipeline states for Virginia licensees are Ohio, Pennsylvania, Texas, New York, and Georgia.
- The funeral service profession has a 96% satisfaction rate.
- Approximately 64% of compensation is through salary or commissions; 20% is through hourly pay.
- There was a decrease in employer provided benefits from 2016-2017: from 81% to 75%.
- 25% of the workforce is in non-metropolitan areas.

Dr. Carter further explained that the survey data provides supply side information, but does not provide demand side information. The Bureau of Labor Statistics does have some data regarding demand through its projections for employment demand. In the short term, from 2016-2018, there is projected to be a 2.2% increase in need or demand for funeral service licensees in Virginia. From 2014-2024, approximately 20 additional jobs will need to be added each year to keep up with projected demand.

Dr. Carter discussed the addition of Funeral Service Licensee to the HWDC occupational roadmap publication. This is a publication disseminated to high school guidance counselors and is available on HWDC's website.

Ms. Steele moved to accept the HWDC's report. Mr. Williams seconded the motion. The vote was unanimous in favor of the motion.

EXECUTIVE DIRECTOR'S REPORT- Corie Tillman Wolf, Executive Director

Corie Tillman Wolf, Executive Director, began her report with the Expenditure and Revenue Summary.

| | |
|--|----------------|
| Cash Balance as of June 30, 2016 | \$ 242,995 |
| YTD FY17 Revenue | 682,535 |
| Less YTD Direct & In-Direct Expenditures | <u>530,294</u> |
| Cash Balance May 31, 2017 | \$ 395,236 |

Ms. Tillman Wolf presented licensure statistics that included the following information:

| License | Q4 FY 2017 | Q2 FY 2017 | Q4 FY 2016 | Difference FY16-FY17 |
|---------------------------------------|-------------------|-------------------|-------------------|-----------------------------|
| Funeral Service Licensees | 1,515 | 1,547 | 1,516 | -1 |
| Funeral Director | 39 | 43 | 42 | -3 |
| Embalmer Only | 2 | 2 | 2 | -- |
| Supervisors | 512 | 503 | 485 | +27 |
| Interns | 184 | 197 | 176 | +8 |
| Establishments | 430 | 436 | 436 | -6 |
| Branch Establishments | 76 | 71 | 67 | +9 |
| Crematories | 113 | 111 | 108 | +5 |
| CE Providers | 23 | 17 | 26 | -3 |
| Courtesy Card Holders | 88 | 87 | 82 | +6 |
| Surface Transport & Removal Svc. | 43 | 48 | 42 | +1 |
| Total (*not incl. supervisors) | 2,513 | 2,561 | 2,497 | +16 |

Ms. Tillman Wolf reported that customer satisfaction survey results for the fourth quarter of FY2017 were 100%

Ms. Tillman Wolf provided exam results from the National Board Exam for 2016 and the first half of 2017, as reported by the International Conference of Funeral Service Examining Boards (“the Conference”). She further provided state-based results from John Tyler Community College and Tidewater Community College as reported by the American Board of Funeral Service Education in its 2016 report.

Ms. Tillman Wolf provided the following updates:

- From the Conference:
 - The Conference recently released information on its website regarding an issue related to the compromise of exam materials.
 - The Conference is in the process of completing a job task analysis, which will help build and update the examination question bank.
 - The State of Colorado issued a summary suspension to Heritage Cremation Provider. The summary suspension order identified Virginia as one of the states where Heritage was alleged to have operated without a license.
 - The Conference has convened a Model Internship Committee; Board members should let Ms. Tillman Wolf know if they are interested in participating.
- Opioid Epidemic and Funeral Directors – HB 1642/SB 1031, passed during the 2017 Session, related to access to naloxone for employees of agencies that may be exposed to potent opioid chemicals during death and/or criminal investigations. The legislation brings to mind concerns for funeral licensees who also handle deceased victims of the

opioid epidemic. Ms. Tillman Wolf provided information to Board members regarding the availability of naloxone and the Revive! Program.

- Vital Records at DMV – At the request of DMV, Ms. Tillman Wolf has provided a reminder to licensees that vital records are available at all 75 DMV customer service centers and 5 mobile offices across the Commonwealth.
- Electronic Death Reporting System (EDRS) – The Division of Vital Records at VDH is continuing to work on disseminating information to physicians and healthcare providers statewide. As part of budget language passed this year in the General Assembly, state teaching hospitals will be required to implement EDRS by April 15, 2018.
- Apprenticeships – Ms. Tillman Wolf met with Trish Morrison from the Department of Labor and Industry and Dr. Elizabeth Carter regarding registered apprenticeships, which may be of interest to Board members and licensees due to the funeral internship program.
- Visual Research, Inc., will report to the Board in October regarding their work on the Sanction Reference Points project. Kim Small passed along her thanks to Board members for their participation.

Ms. Tillman Wolf provided staff updates to Board members and explained the new \$50 per diem for Board members.

With no further questions, Ms. Tillman Wolf concluded her report.

DISCIPLINE REPORT – Lynne H. Helmick, Deputy Executive Director for Discipline

Lynne Helmick, Deputy Executive Director, reported on the current number of open cases, discipline statistics, and Key Performance Measures.

41 Total Cases
 24 in Investigation
 8 in Probable Cause
 5 at APD
 1 in Formal
 3 in Informal
10 licensees in Compliance Monitoring

Virginia Performs - Q4 2017 – Patient Care Cases

- The clearance rate was 100%; the Board received 6 cases and closed 6 cases.
- The pending caseload over 250 days was at 10% (1 case).
- Cases closed within 250 days is 67% - 4 of 6 cases closed within 250 days.

Ms. Helmick reported that the fourth quarter statistics for all cases has not been published yet and will report on those numbers at the next meeting. Ms. Helmick provided a summary of the categories of cases processed by the Board in FY16 and FY17.

With no further questions, Ms. Helmick concluded her report.

BOARD OF HEALTH PROFESSIONS REPORT- Junius Williams

Mr. Williams did not have a report.

OLD BUSINESS

Courtesy Cards – Additional information was compiled from responses from other states through The Conference and provided to Board members. Mr. Nelsen had no additional information to report on this issue at this time.

BREAK

Mr. Jones called for a break at 11:57 a.m. The Board meeting reconvened at 12:15 p.m.

TRAINING - Erin Barrett, Assistant Attorney General

Erin Barrett, Assistant Attorney General, Board Counsel, provided training to Board members regarding the disciplinary process, including the process for formal hearings, the sanctions that can be imposed, and the appeals process. With no further questions, Ms. Barrett concluded her training.

ADJOURNMENT

With all business concluded, the meeting was adjourned at 12:49 p.m.

Louis R. Jones, FSL, President

Corie Tillman Wolf, Executive Director

Date

Date

ATTACHMENT A

2018 Session of the General Assembly

Draft Legislation

A BILL to amend the *Code of Virginia* by amending § 54.1-2817, regarding the funeral internship program.

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2817 of the *Code of Virginia* is amended as follows:

§ 54.1-2817. Funeral service interns.

A person desiring to become a funeral service intern shall apply on a form provided by the Board. The applicant shall attest that he holds a high school diploma or its equivalent. The Board, in its discretion, may approve an application to be a funeral service intern for an individual convicted of a felony, if he has successfully fulfilled all conditions of sentencing, been pardoned, or has had his civil rights restored. The Board shall not, however, approve an application to be a funeral service intern for any person convicted of embezzlement or of violating subsection B of § 18.2-126.

The Board, in its discretion, may refuse to approve an application to be a funeral service intern for an individual who has a criminal or disciplinary proceeding pending against him in any jurisdiction in the United States.

When the Board is satisfied as to the qualifications of an applicant, it shall issue a certificate of internship. When a funeral service intern wishes to receive in-service training from a person licensed for the practice of funeral service, a request shall be submitted to the Board. If such permission is granted and the funeral service intern later leaves the proctorship of the licensee whose service has been entered, the licensee shall give the funeral service intern an affidavit showing the length of time served with him. The affidavit shall be filed with the Board and made a matter of record in that office. Any funeral service intern seeking permission to continue in-service training shall submit a request to the Board.

A certificate of internship shall be renewable as prescribed by the Board. The Board shall mail at such time as it may prescribe by regulation, to each registered funeral service intern at his last known address, a notice that the renewal fee is due and that, if not paid by the prescribed time, a penalty fee shall be due in addition to the renewal fee.

The registration of any funeral service intern who is in the active military service of the United States may, at the discretion of the Board, be held in abeyance for the duration of his service. The Board may also waive the renewal fees for such military personnel.

All registered funeral service interns shall report to the Board on a schedule prescribed by the Board upon forms provided by the Board, showing the work which has been completed during the preceding period of internship. The data contained in the report shall be certified as correct by the person licensed for the practice of funeral service under whom he has served during this period and by the person licensed for the practice of funeral service owning or managing the funeral service establishment.

Before such funeral service intern becomes eligible to be examined for the practice of funeral service, evidence shall be presented along with an affidavit from any licensee under whom the intern worked showing that the intern has assisted in embalming at least 25 bodies and that the intern has assisted in conducting at least 25 funerals. In all applications of funeral service interns for licenses for the practice of funeral service, the eligibility of the applicant shall be determined by the records filed with the Board. The successful completion by any person of the internship shall not entitle him to any privilege except to be examined for such license.

Credit shall not be allowed for any period of internship that has been completed more than ~~three~~ five years prior to application for ~~license or more than five years prior to examination for license~~ licensure. If all requirements for licensure are not completed within five years of initial application for an internship, the Board may deny an extension or an additional internship. A funeral service intern may continue to practice for up to 90 days from the completion of his internship or until he has taken and received the results of all examinations required by the Board. However, the Board may waive such limitation for any person in the armed service of the United States when application for the waiver is made in writing within six months of leaving service or if the Board determines that enforcement of the limitation will create an unreasonable hardship.

The Board shall have power to suspend or revoke a certificate of internship for violation of any provision of this chapter.

No more than two funeral service interns shall be concurrently registered under any one person licensed for the practice of funeral service, funeral directing or embalming. Each sponsor for a registered funeral service intern must be actively employed by or under contract with a funeral establishment.

ATTACHMENT B

Guidance document: 65-19

Adopted: July 18, 2017

Virginia Board of Funeral Directors and Embalmers

Identification of Funeral Service Interns

In communications with members of the public, whether in person, in advertisements, or in written correspondence, the Board of Funeral Directors and Embalmers recommends that a person registered as an intern be identified as a “Funeral Service Intern” if a title is used along with a person’s name. This includes, but is not limited to, listings of staff in advertisements or on websites, signature/title blocks in written or electronic correspondence, business cards and name tags. The Board further recommends that consumers be made aware that the funeral home representative is a Funeral Service Intern when an intern meets with consumers to arrange funeral services.

ATTACHMENT C

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Clarification of permission to embalm and refrigeration of human remains

Part VII

Standards for Embalming and Refrigeration

18VAC65-20-510. Embalming ~~report~~.

A. In accordance with the provisions of § 54.1-2806(26) and 54.1-2811.1(B) of the Code of Virginia, express permission by a next of kin for embalming means written authorization to embalm as a specific and separate statement on a document or contract provided by the funeral establishment. Express permission may include direct, verbal authorization to embalm, provided it is followed as soon as possible by a written document or statement signed by the next of kin confirming the verbal authorization to embalm and including the time, date, and name of the person who gave verbal authorization

B. Every funeral establishment shall record and maintain a separate, identifiable report for each embalming procedure conducted, which shall at a minimum include the following information:

1. The name of the deceased and the date of death;
2. The date and location of the embalming;
3. The name and signature of the embalmer and the Virginia license number of the embalmer; and
4. If the embalming was performed by a funeral service intern, the name and signature of the supervisor.

18VAC65-20-581. Refrigeration requirements.

A. If a dead human body is to be in the possession of a funeral establishment or crematory for more than 48 hours from the time the funeral establishment or crematory takes physical possession of the body until embalming, cremation, or burial, the body shall be placed and maintained in refrigeration in a mechanical refrigeration unit suitable for storing human remains in accordance with § 54.1-2811.1(B) of the Code of Virginia.

B. The mechanical refrigeration unit may be located in the funeral establishment or crematory, or the funeral establishment or crematory may enter into an agreement or contract with another funeral establishment, crematory, or other licensed entity for refrigeration in a mechanical refrigeration unit.

C. Evidence of compliance with the requirement for refrigeration shall be maintained as a log entry or other documentation indicating times of placement in and removal of a body in refrigeration.